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SERVICE DATE – NOVEMBER 14, 2018

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36242]

Oregon International Port of Coos Bay—Continuance in Control Exemption—Coos Bay Rail Line, Inc.

Oregon International Port of Coos Bay (the Port) filed a verified notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(2) to continue in control of Coos Bay Rail Line, Inc. (Coos Rail), a nonprofit corporate entity under the control of the Port, upon Coos Rail's becoming a Class III rail carrier.

The transaction is related to a concurrently filed verified notice of exemption in Coos Bay Rail Line, Inc.—Change in Operators Exemption—Coos Bay Railroad Operating Company, LLC d/b/a Coos Bay Rail Link, Docket No. FD 36241. In that proceeding, Coos Rail seeks an exemption under 49 C.F.R. § 1150.31 to replace Coos Bay Railroad Operating Company, LLC d/b/a Coos Bay Rail Link as the operator of two interconnected railroad lines owned by the Port, extending from milepost 652.114 at Danebo, Or., to milepost 763.13 at Cordes, Or.; and from milepost 763.13 at Cordes to milepost 785.5 at Coquille, Or., a total of approximately 133 miles (collectively, the Line).

The earliest this transaction may be consummated is November 28, 2018, the

effective date of the exemption (30 days after the verified notice was filed).¹ The Port states that it intends to consummate the transaction no later than November 28, 2018.

The Port is a Class III rail carrier and will continue in control of Coos Rail upon Coos Rail's becoming a Class III rail carrier. The Line is the only rail line owned or operated by the corporate family, and therefore: it does not connect with any other railroads in the corporate family; and the continuance in control is not part of series of anticipated transactions that would connect the Line with any other railroad in the corporate family. Furthermore, the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. § 1180.2(d)(2).

Under 49 U.S.C. § 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because all the carriers involved are Class III carriers.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any

¹ On October 31, 2018, the Port filed a petition for partial waiver of 49 C.F.R. § 1180.4(g)(1) to permit the exemption to become effective by no later than November 19, 2018, instead of the standard 30 days after the verified notice was filed. The waiver request will be addressed in a separate Board decision.

time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than November 21, 2018.²

An original and 10 copies of all pleadings, referring to Docket No. FD 36242, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

Board decisions and notices are available on our website at www.stb.gov.

Decided: November 8, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

² Should the Board grant Coos Rail's waiver request and accelerate the effective date of the exemption, the due date for stay petitions may be revised accordingly.